

under section 2411 of this title, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

(b) Notice; report to Congress

The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 2411 of this title and the reasons therefor.

(c) Review of necessity

(1) If—

(A) a particular action has been taken under section 2411 of this title during any 4-year period, and

(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 2411 of this title, the Trade Representative shall conduct a review of—

(A) the effectiveness in achieving the objectives of section 2411 of this title of—

(i) such action, and

(ii) other actions that could be taken (including actions against other products or services), and

(B) the effects of such actions on the United States economy, including consumers.

(Pub. L. 93-618, title III, §307, as added Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1174.)

EFFECTIVE DATE

Section applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 2411 of this title.

§ 2418. Request for information

(a) In general

Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies;

(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

(b) If information not available

If information that is requested by a person under subsection (a) of this section is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

(1) request the information from the foreign government; or

(2) decline to request the information and inform the person in writing of the reasons for refusal.

(c) Certain business information not made available

(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5), no information requested and received by the Trade Representative in aid of any investigation under this subchapter shall be made available to any person if—

(A) the person providing such information certifies that—

(i) such information is business confidential,

(ii) the disclosure of such information would endanger trade secrets or profitability, and

(iii) such information is not generally available;

(B) the Trade Representative determines that such certification is well-founded; and

(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

(2) The Trade Representative may—

(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this subchapter, or

(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

(Pub. L. 93-618, title III, §308, as added Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1175.)

EFFECTIVE DATE

Section applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no

decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 2411 of this title.

§ 2419. Administration

The Trade Representative shall—

(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this subchapter,

(2) keep the petitioner regularly informed of all determinations and developments regarding the investigation conducted with respect to the petition under this subchapter, including the reasons for any undue delays, and

(3) submit a report to the House of Representatives and the Senate semiannually describing—

(A) the petitions filed and the determinations made (and reasons therefor) under section 2412 of this title,

(B) developments in, and the current status of, each investigation or proceeding under this subchapter,

(C) the actions taken, or the reasons for no action, by the Trade Representative under section 2411 of this title with respect to investigations conducted under this subchapter, and

(D) the commercial effects of actions taken under section 2411 of this title.

(Pub. L. 93-618, title III, §309, as added Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1175.)

EFFECTIVE DATE

Section applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 2411 of this title.

§ 2420. Identification of trade expansion priorities

(a) Identification

(1) Within 180 days after the submission in calendar year 1995 of the report required by section 2241(b) of this title, the Trade Representative shall—

(A) review United States trade expansion priorities,

(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent, and

(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices identified.

(2) In identifying priority foreign country practices under paragraph (1) of this section, the Trade Representative shall take into account all relevant factors, including—

(A) the major barriers and trade distorting practices described in the National Trade Esti-

mate Report required under section 2241(b) of this title;

(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;

(C) the medium- and long-term implications of foreign government procurement plans; and

(D) the international competitive position and export potential of United States products and services.

(3) The Trade Representative may include in the report, if appropriate—

(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries and progress is being made toward the elimination of such practices.

(b) Initiation of investigations

By no later than the date which is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1) of this section, the Trade Representative shall initiate under section 2412(b)(1) of this title investigations under this subchapter with respect to all of the priority foreign country practices identified.

(c) Agreements for elimination of barriers

In the consultations with a foreign country that the Trade Representative is required to request under section 2413(a) of this title with respect to an investigation initiated by reason of subsection (b) of this section, the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.

(d) Reports

The Trade Representative shall include in the semiannual report required by section 2419 of this title a report on the status of any investigations initiated pursuant to subsection (b) of this section and, where appropriate, the extent to which such investigations have led to increased opportunities for the export of products and services of the United States.

(Pub. L. 93-618, title III, §310, as added Pub. L. 100-418, title I, §1302(a), Aug. 23, 1988, 102 Stat. 1176; amended Pub. L. 103-465, title III, §314(f), Dec. 8, 1994, 108 Stat. 4941.)

AMENDMENTS

1994—Pub. L. 103-465 amended section generally, changing dates and criteria for submission of certain reports and revising and restructuring provisions relating to identification of trade liberalization priorities, initiation of investigations, and agreements for elimination of barriers.